**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 4382 OF 2005**

Rajendra Dnyaneshwar Khobare. ... Applicant
Versus.
The State of Maharashtra. ... Respondent.

Shri Ujwal R.Agandsurve for the Applicant.
Shri R.Y.Mirza, A.P.P. for the Respondent.

**CORAM : ABHAY S. OKA, J.**

**DATED : 26th July, 2005.**

**P.C.:**

1. Heard the learned Advocate for the Applicant and the learned A.P.P. for the State.

2. This application for anticipatory bail is filed by the Applicant as he is apprehending arrest in connection with the offence registered under sections 302, 323, 364, 368, 506 read with section 34 of the Indian Penal Code. The Apex Court has held that the gravity of the allegations and the need for custodial interrogation are the only two factors which are required to be considered while considering the case for anticipatory bail. In this case it is pertinent to note that the F.I.R. was lodged on 9th May 2005 by the brother of the deceased alleging that on 31st March 2005 early in the morning his sister-in-law informed him that in the night at 12.00 O'clock one Sanjay Jadhav a rickshaw driver and two others took her husband away at the instance of the co-accused Nilesh Dombe. The case made out by the first informant is that the accused Nilesh Dombe had illegally

confined his brother in a lodge at Pandharpur and the said Nilesh Dombe demanded a ransom of Rs.20,000/- for releasing his brother. According to the case of the first informant he collected a sum of Rs.15,000/- and paid the same to the said Nilesh Dombe and thereafter he released the deceased. According to the Complainant the deceased was released on 5th April 2005 and on 9th April 2005 he was admitted to the hospital and on the next day his brother expired.

3. In the F.I.R. the present Applicant is not named at all. The first supplementary statement of the first informant was recorded on 11th May 2005 in which the Applicant is not named. On 27th June 2005 one more supplementary statement of the first informant was recorded in which he has for the first time named the Applicant by alleging that the Applicant along with the other Accused illegally confined his brother in a lodge and all of them assaulted his brother. Apart from the said supplementary statement of the first informant which is recorded nearly three months after the date of the incident no other witness has named the Applicant. The learned A.P.P. pointed out that the co-accused has named the Applicant in the statement recorded under section 27 of the Indian Evidence Act. Such a statement cannot be obviously considered.

4. It is on record that at the instance of one of the co-accused a motor vehicle has been recovered which was used for abducting the deceased. Recovery of weapon has been already made at the instance of the other accused.

5. Considering all these factors it is obvious that the detention of the Applicant will cause undue harassment to him and therefore, he is entitled to be enlarged on anticipatory bail.

6. Hence the following order is passed:

(i) In the event of the arrest of the Applicant in connection with C.R.No.92 of 2005, registered at Pandharpur Taluka Police Station, the Applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.15,000/- with one of two local sureties in the like amount.

(ii) The Anticipatory Bail is granted subject to condition that the Applicant will attend the concerned Police Station from 2nd August, to 4th August 2005 between 10.00 a.m. to 5.00 p.m. every day and will cooperate with the investigation and thereafter will attend the Police Station as and when called upon to do so by the

Investigating Officer.

(iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/ Investigating Agency. The Applicant shall not tamper with the prosecution evidence.

(iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(v) This order will enure to the benefit of the Applicant only till charge sheet is filed. Thereafter he will be free to apply to the appropriate Court for appropriate relief.

(vi) Application is disposed of in above terms.

(vii) The parties to act upon an authenticated copy of this order.

**Judge.**